



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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April 17, 2007

WASHINGTON CONSERVATION VOTERS
ATTN: KURT FRITTS, POLITICAL DIRECTOR
PMB B-3464
300 LENORA
SEATTLE WA 98121

Subject: Complaint against Mainstream Republicans of Washington-PDC Case #07-035

Dear Mr. Fritts:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received on November 2, 2006, alleging that the Mainstream Republicans of Washington (MRW) sponsored candidate political advertisements that falsely implied endorsement of those candidates by the Washington Conservation Voters (WCV), in violation of RCW 42.17.530.

Specifically, you alleged that MRW sponsored direct mail political advertisements that featured candidates for the Washington State Legislature in 2006 who had received either endorsement or recognition by the WCV as well as other candidates who had not received such endorsement or recognition. You maintained that the location of the WCV logo and the reference to an endorsement in the ads implied endorsement of non-endorsed candidates.

The PDC staff reviewed your allegations in light of the following statute:

RCW 42.17.530 prohibits a person from sponsoring with actual malice political advertising that contains a false or implied endorsement of any person or organization, when in fact the candidate does not have that endorsement. "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity. Any violation must be proven by clear and convincing evidence.

We reviewed the evidence provided in the complaint and the response from the Mainstream Republicans of Washington. As a result of our review, we found that:

- The Mainstream Republicans of Washington (MRW) is a political committee that has been registered and reporting with the Public Disclosure Commission at least since 1996.

- Alex B. Hays, Executive Director of the MRW, stated the MRW sent out direct mail pieces in 2006 that featured legislative candidates, included information about their positions or statements on environmental issues, and information about the Washington Conservation Voters (WCV). Mr. Hays said the information about the WCV used by MRW in the direct mail pieces came directly from the WCV website and included their list of endorsed candidates, information about the WCV 2005-2006 Legislative scorecards, and other WCV information. He stated that MRW sponsored eight independent expenditure mailings in 2006. He said that all eight mail pieces used the same layout, beginning with the statements: "Can you tell a "Democratic Tree" from a "Republican Tree? Neither can we" and included information about the WCV ratings or endorsements.
- Each candidate and the content featured in the eight mail pieces were separated by a graphic depiction of a tree.
- One of the mail pieces urged voters in the 48th Legislative District to vote for Luke Esser, a candidate seeking re-election to the State Senate, and also for Bret Olson, a State Representative candidate. The mail piece provided information about each candidate's position on environmental issues and included a tree in the middle of the piece which separated the information about each candidate. The mail piece included information about the WCV 2005-2006 Legislative scorecard relating to Senator Esser, and stated that he "supported and led on each and every one of the environmental community's priorities over the last two years."
- The information about Senator Esser included the WCV logo and the statement "Endorsed by WCV." The logo and endorsement was placed directly to the left of the tree. Senator Esser did receive the endorsement of the WCV in 2006. The same mail piece also featured Bret Olson and included a statement from former Washington State Congressman Sid Morrison about how Mr. Olson "stands out for his commitment to the environment and bi-partisanship." The information related to Mr. Olson appeared on the right side of the mail piece and this portion of the document made no specific reference to WCV.
- The other mail piece urged voters in the 45th Legislative District to vote for Toby Nixon for State Senator and for Jeff Possinger and Tim Lee for State Representative. The ad provided information about each candidate's position on certain environmental issues. The mail piece included a tree that separated the information about Representative Nixon from the other two candidates. The information included a statement from the WCV 2005-2006 Legislative scorecard about how Rep. Nixon had "consistently provided leadership on environmental issues." The information about Rep. Nixon also included the WCV logo alongside the statement "WCV Good Green Deeds." Again, the logo and statement appeared just to the left of the tree. Rep. Nixon did receive the Good Green Deeds from the WCV in 2006.

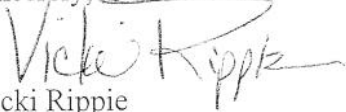
- The information about Jeff Possinger and Tim Lee appeared to the right of the tree and included a statement from former Congressman Sid Morrison about how Jeff Possinger and Tim Lee stood for the environment and bi-partisanship. The attribution to Congressman Morrison was followed by "Sponsor of the William O. Douglas Wilderness Area." The content did not mention or refer to the WCV.
- Mr. Hays stated that WCV's logo appeared next to each of the candidates that had either received a WCV endorsement or some other special recognition from WCV. He said that MRW used a tree to simply divide the candidates featured in the mail pieces and also to separate the comments relative to each of the candidates featured. Mr. Hays said the WCV information relating to Senator Esser and Representative Nixon was included directly under each candidate and the WCV logo appeared to the right of the WCV quote. He said the decision to place the WCV logo at the center of each page was a design issue, rather than an issue of falsely implying the other candidates featured in the mail piece were also endorsed by the WCV.
- Mr. Hays also provided two additional direct mail pieces that were sponsored by the MRW that used the same layout as the mail pieces provided in the complaint. One of the mailings was devoted to urging voters in the 41st Legislative District to re-elect Fred Jarrett, State Representative. It provided information about some of his environmental issues. Its design was comparable to ads featuring two or more candidates. The mail piece included a statement from the WCV 2005-2006 Legislative scorecard about how Rep. Jarrett "is the strongest environmental leader in his caucus," the WCV logo, the words "Endorsed by WCV." The information also had a tree positioned on the far right side of the page.
- The other mail piece featured Don Anderson and Bob Lawrence, State Representative candidates in the 28th Legislative District. The mail piece provided statements about their candidacies on environmental issues but did not mention or refer to the WCV. The mail piece provided an endorsement statement from Doug Sutherland, Washington Public Lands Commissioner, for both candidates and a tree was included in the middle of the piece which separated the information about the two candidates.

Although a person in the 48th or 45th districts receiving one of these ads might not recognize that the WCV and endorsement language only applied to the person appearing to the left of the tree, no clear and convincing evidence was found that the MRW falsely implied that candidates not recognized by the WCV were endorsed by the WCV.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Mainstream Republicans of Washington.

Thank you for bringing this matter to our attention. The process relies on citizens monitoring campaign activity to promote full compliance. If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828.

Sincerely,

A handwritten signature in black ink, appearing to read "Vicki Rippie", with a long horizontal flourish extending to the right.

Vicki Rippie
Executive Director